

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SANTA CLARA VALLEY
TRANSPORTATION AUTHORITY, THE TOWN
of LOS GATOS, and SOBRATO INTERESTS III, a
California limited partnership, for an Order
Authorizing Conversion of an Existing Private
At-Grade Freight Railroad Crossing to a Public
Crossing and Approving enhanced Safety
Appliances and Procedures at the crossing,
adjacent to Winchester Boulevard near State
Route 85 located in the Town of Los Gatos,
County of Santa Clara, State of California.

Application 04-03-003
(Filed March 5, 2004)

OPINION GRANTING APPLICATION

Summary

This decision grants the application of the Santa Clara Valley
Transportation Authority (SCVTA), Town of Los Gatos (Town), and Sobrato
Interests III (Sobrato)¹ to convert an existing private at-grade crossing in Los
Gatos to a public crossing and to provide enhanced safety features and other
improvements at the crossing.

¹ Collectively, these are the “applicants.”

Procedural Background

This application was initially filed by SCVTA and Sobrato on March 5, 2004. Notice was published in the Daily Calendar on March 5, 2004. Union Pacific Railroad Company (UPRR) filed a timely protest on April 2, 2004. At the prehearing conference (PHC) held on July 13, 2004, the parties indicated their interest in pursuing settlement. As a result of their discussions, SCVTA, the Town, and Sobrato filed a First Amended Application (amended application) on October 21, 2004. Notice of the amended application was published in the Daily Calendar on October 25, 2004. No protests were filed to the amended application. On December 1, 2004, UPRR withdrew its protest to the original application. This matter is therefore uncontested.

Discussion

The amended application proposes to convert the existing at-grade private crossing adjacent to Winchester Boulevard and roughly parallel to State Route 85 to a public crossing, with additional safety features. The crossing is located at MP 5.76 on the Vasona Branch right-of-way, which is currently owned by SCVTA but maintained by UPRR. The crossing is part of the main entrance to the proposed Vasona Research Park project (Vasona Park project), which will provide high-density housing and office space. The crossing is accessed from Winchester Boulevard. The applicants propose to adjust their responsibilities for owning, maintaining, and funding the right-of-way, crossing, and improvements according to detailed agreements summarized in the amended application.

The crossing itself will have Standard No.9 crossing gates, in accordance with General Order 75-C, for both approaches to the crossing. Thermoplastic railroad crossing pavement markings, complying with Caltrans standards, will

be placed on the approach to the crossing. The existing asphalt crossing surface will be replaced by pre-cast concrete grade crossing panels.

Traffic in the immediate vicinity of the crossing will increase because of the Vasona Park project. In addition to the improvements to the crossing itself, the applicants intend to install new traffic signals at the existing driveway entrance to the Vasona Park project. The signals will include railroad preemption coordination and coordination with the queue detectors on the State Route 85 on-ramp. The median on Winchester Boulevard will be modified to allow controlled left turns into the Vasona Park project. The street design and markings will be changed to reduce the possibility of traffic backing up onto the railroad tracks.

The rail traffic at the crossing currently is low-velocity freight rail. It is unlikely that rail traffic will increase in the near future, since the freight traffic serves only one local industry and SCVTA's Vasona extension terminates north of the crossing. Because of the close proximity of the overcrossing and on-ramp for Highway 85, this crossing cannot feasibly be grade-separated.

The proposed conversion of the crossing and the installation of warning devices respond adequately to the projected increase in traffic in the vicinity of the crossing and should be approved.

CEQA Review

The Town is the lead agency for the Vasona Park project, of which this crossing work is a part, under the California Environmental Quality Act (CEQA) Pub.Res. Code § 21000 *et seq.* On February 22, 2002, the Town filed in Santa Clara County Superior Court a Notice of Determination (NOD) for the Vasona Park project, based on an Environmental Impact Report (EIR). The NOD concluded that the Vasona Park project would not have adverse environmental impacts.

The Commission is a CEQA responsible agency, as defined in Pub. Res. Code § 21069, for the crossing project. To comply with CEQA, a responsible agency must consider the lead agency's Environmental Impact Report or Negative Declaration prior to acting upon or approving the project. (CEQA Guidelines, §§ 15050, 15096.)

In this case, the Town, the lead agency, determined, after preparation of an EIR, that the Vasona Park project would not have adverse environmental impacts. We are aware of no reason why this determination is not warranted. We find the EIR and NOD adequate for our decision-making purposes. Accordingly, we also find that the crossing project (part of the larger Vasona Park project) will have no adverse environmental impacts.

Categorization

This proceeding was preliminarily categorized as ratesetting by Resolution ALJ 176-3130 on March 16, 2004. We also preliminarily determined that hearings were not necessary. The only protest filed has been withdrawn. Staff recommends that this application be granted. The preliminary determinations are confirmed.

Waiver of Comment Period

This is now an uncontested matter in which the decision grants the relief requested. Pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is waived.

Assignment of Proceeding

Dian Grueneich is the Assigned Commissioner and Anne E. Simon is the assigned Administrative Law Judge.

Findings of Fact

1. Notice of the application was published in the Commission Daily Calendar on March 5, 2004.
2. UPRR filed a timely protest to the application on April 2, 2004.
3. The applicants filed an amended application on October 21, 2004.
4. Notice of the amended application was published in the Daily Calendar on October 25, 2004.
5. No protests were filed to the amended application.
6. UPRR withdrew its protest on December 1, 2004.
7. This application is uncontested.
8. The proposed new public crossing is identified as CPUC Crossing No. 001L-52.99.
9. The crossing project is part of the larger Vasona Park project.
10. The Town is the CEQA lead agency for the Vasona Park project.
11. The Commission is a responsible agency for the crossing project under CEQA.
12. The Commission reviewed and considered the Town's environmental documentation.
13. On February 22, 2002, the Town filed a NOD for the Vasona Park project, based on an EIR, concluding that the Vasona Park project would not have adverse environmental impacts.
14. The Town's environmental documentation is adequate for our decision-making purposes.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.
2. The EIR and NOD prepared by the Town as the documentation required by CEQA for the Vasona Park project, of which the project proposed in this application is a part, are adequate for our decision-making purposes.
3. We adopt the Town's NOD finding that the proposed crossing project will not have adverse environmental impacts.
4. The application should be granted as set forth in the following order.

O R D E R**IT IS ORDERED** that:

1. The Santa Clara Valley Transportation Authority (SCVTA), Sobrato Interests III, and the Town of Los Gatos (collectively, Applicants) are authorized to convert the existing private at-grade highway-rail crossing adjacent to Winchester Boulevard over the freight branch line tracks of the SCVTA, which are operated by the Union Pacific Railroad in Los Gatos, Santa Clara County, to a public crossing. The crossing will be known as CPUC Crossing No. 001L-52.99.
2. Applicants shall install two CPUC Standard No.9s (flashing light signals with automatic gates).
3. The intersection formed by the westbound entrance to State Route 85, Winchester Boulevard and the driveway leading to the crossing shall be equipped with traffic signals. The traffic signals shall be interconnected for railroad preemption.
4. For motorists traveling northbound on Winchester Boulevard, an extinguishable message sign stating "No Right Turn," activated during train movements, shall be installed.

5. Appropriate pavement warning markings shall be installed.
6. Raised medians shall be installed.
7. Concrete panels shall be installed for the crossing surface.
8. A northbound acceleration lane shall be constructed for Winchester Boulevard.
9. Applicants shall comply with all applicable General Orders, the Federal Highway Administration's Manual on Uniform Traffic Control Devices as amended by the California Supplement, and the Caltrans Highway Design Manual.
10. Within 30 days after completion of the work under this order, the Applicants shall notify the Commissions Rail Crossings Engineering Section in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), that the authorized work is completed.
11. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.
12. This application is granted as set forth above.
13. Application 04-03-003 is closed.

This order is effective today.

Dated _____, at San Francisco, California.